

(No. 103.)



1860.

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T A S M A N I A.

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MR. JUSTICE HORNE.

CORRESPONDENCE.

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Laid upon the Table by Mr. Attorney-General, and ordered by the House to be printed, 19 September, 1860.



*Hobart Town, 14th September, 1860.*

SIR,

BEING the Plaintiff in a suit in Equity in the Supreme Court of this Colony, which is referred by the Court to Mr. Justice Horne at Chambers, some circumstances have occurred respecting it which impress me with the conviction that I cannot receive justice at the hands of His Honor. As the Honourable the Attorney-General is Counsel for me in the case, it is, I apprehend, more proper that I should address myself to you on the subject than to him.

The principal object of the suit is to have partnership accounts taken between myself and Mr. Isaac Solomon, my late partner; and, among other matters connected with the accounts, His Honor is to ascertain what sum or sums of money have been drawn out of the partnership estate, and invested in the purchase of real estate.

In the month of February last, after numerous meetings had taken place before His Honor on the subject of the accounts, I casually met Mr. Justice Horne near Fitzroy Crescent, and after some conversation he said he intended to call on me on some subject, which he did not then explain. I proposed to call upon him instead, but he then expressed himself as preferring to call on me. On the 1st March last, however, I received a letter from him (of which I enclose a copy), requesting me to call upon him. I called at his house accordingly on the following day, and saw him; and he then asked me to lend him the sum of £500, which he said he wished to employ in some quartz-crushing speculation. I told him it was not convenient to me to lend the money at that time, and declined doing so.

After this occurrence the taking of the accounts, which occupied a considerable time, proceeded, and, on the 16th April last, a meeting took place before His Honor, at which I sought, by my Counsel the Attorney-General, to show that the purchase-moneys of certain properties in land and houses in Hobart Town, which had been purchased in the name of a son of the defendant to the amount of about £2000, were, in fact, part of the funds of the partnership. I had reason to think my Counsel had established this to the satisfaction of Mr. Justice Horne; but His Honor reserved his judgment on the subject.

A considerable delay took place after this in the proceedings in my suit, in consequence of indisposition on the part of Mr. Justice Horne; and in July last, understanding that His Honor was so much better as to have presided in one of the Criminal Courts, I instructed my Solicitor, Mr. Pritchard, to press him for an appointment to deliver his decision on the subject of the investment of partnership funds in real estate.

Mr. Pritchard, (to whom I had mentioned the foregoing circumstances as they occurred,) accordingly, as he informed me, called on Mr. Justice Horne, on the 27th July last. He did not obtain the desired appointment, His Honor being still in a bad state of health; but Mr. Justice Horne, as Mr. Pritchard informed me, at that interview stated to him that he had come to a conclusion adverse to my interest, and to the effect that the money in question was that of the defendant's son, and not partnership money,—a conclusion which appeared to me to be quite at variance with the evidence before His Honor. I then instructed Mr. Pritchard not to press for an appointment, and the decision has not yet been delivered.

I submit to you, Sir, that these circumstances warrant me in believing that my cause will not be dealt with by Mr. Justice Horne upon principles of impartial justice; and I have respectfully to request that some measures may be adopted by which it may be withdrawn from his consideration.

I have the honor to be,  
Sir,

Your obedient Servant,  
J. SOLOMON.

*The Honorable the Colonial Secretary.*

(Enclosure.)

*Fitzroy Place, Thursday, 1st March, 1860.*

DEAR SIR,

IF you can make it convenient to call upon me to-morrow, at any time between seven in the morning and ten o'clock, I shall be glad to see you.

Truly yours,

THOS. HORNE.

Addressed on the envelope—JOSEPH SOLOMON, *Esq., Macquarie-street.*

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*To His Excellency the Governor in Council.*

I HAVE the honor to acknowledge the receipt of the Minute of the Executive Council, dated 17th September, 1860; and to observe, that—

In the month of February last it became necessary for the family (I use this expression purposely to avoid names) to raise a large sum of money otherwise than by mortgage, for which purpose I applied to Mr. Dunn and Mr. Robertson; but those gentlemen not being, the one willing, the other prepared, to advance so large a sum, I thought it advisable to divide the amount, and Mr. Solomon being a dealer in money, I, as a matter of business, wrote to him the letter he sets forth. He did call at my house, as he says, and I asked him if he had any money to advance. He replied he had not, and had been obliged to sell a farm. I apologised for the trouble I had given him, and then entered upon the notorious topic of the day, the Western Quartz Reefs, and the interest I had in them, and my belief of their auriferous quality, and intention of Crushing to test their richness. I don't think any specific sum of money was mentioned, for when Mr. Solomon said he had none to advance there was an end to that question; and it is upon this basis Mr. Solomon asserts that I asked him "to lend me £500 to employ in some Quartz-crushing speculation." Some short time afterwards the money required by the family was obtained in one sum by my own acceptance to a relation's draft at the Commercial Bank. Mr. Solomon and his suit never entered into my mind, nor into his, as it appears, in connection with this matter till upwards of five months after, and then only in consequence of his hearing from his Solicitor that I had arrived at a contrary conclusion to himself upon some evidence to which he alludes in his letter, "as a conclusion which appears to me quite at variance with the evidence before His Honor."

In this view I feel I am correct, from Mr. Solomon's statement—"In July last, I instructed my solicitor, Mr. Pritchard, to press him for an appointment to deliver his decision on the subject of the investment of partnership funds in real estate."

What circumstance, may I ask, has occurred since that time to "warrant him in believing that his cause will not be dealt with by Mr. Justice Horne upon principles of impartial justice?" And why has he delayed, till the fire of persecution has well nigh done its office, to produce so infamous an insinuation against me? Why from 1st March to 14th September? No candid mind, no honest heart, can believe this insinuation, and no walker of the streets of Hobart Town has failed to detect its object.

In conclusion, may I ask, is it to be endured that because a party takes a different view of evidence to a judge, he is to be the subject of the vilest and basest insinuations?

I ought, perhaps, to add, that, as to the matter referred to me, it is not in my power to *decide*, but simply to report to the full Court.

I have the honour to be,

Your Excellency's most obedient, humble Servant,

THOMAS HORNE.

18th September, 1860.

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*Colonial Secretary's Office, 19th September, 1860.*

SIR,

IN reply to your letter of the 14th instant, requesting, under the circumstances therein stated, that some measures may be adopted by which the cause referred to in your letter may be withdrawn from the consideration of Mr. Justice Horne, I have the honor to inform you that the Governor in Council has directed that a copy of your letter, with a copy of His Honor Mr. Justice Horne's observations thereon, shall be transmitted to their Honors the Judges of the Supreme Court, in order that such arrangements, if any, with reference to the case may be made as their Honors may think necessary under the circumstances.

I have, &c.,

WILLIAM HENTY.

JOSEPH SOLOMON, *Esq., Macquarie-street.*